

Wold, Marcia

From: Burke, Robert
Sent: Thursday, March 30, 2006 10:46 AM
To: Taniguchi, Harold; Brown, Laurie
Cc: Wold, Marcia; Renaud, Rick
Subject: FW: Slip 4

FYI. We will be asking for a meeting with you in a week or so.

-----Original Message-----

From: Renaud, Rick
Sent: Thursday, March 30, 2006 9:33 AM
To: Burke, Robert
Subject: FW: Slip 4

Please review and we can discuss.

Rick Renaud
Airport Engineer
King County International Airport
(206) 296-7427

-----Original Message-----

From: Johnson, Scott
Sent: Thursday, March 30, 2006 9:28 AM
To: Renaud, Rick
Subject: RE: Slip 4

Rick,

In reference to determining the relative responsibility of the Airport and Wastewater for the cost of the Slip 4 clean up, the basic policy issues are how that responsibility will be determined and when. The considerations the policymakers need to weigh in deciding that issue are likely:

- relative fault - the accountancy act requires each "fund" to pay its fair share.
- ability to ascertain fault - are the facts such that the relative fault of each agency can be readily ascertained? If not, does it make sense to expend resources on undertaking a fact-specific, internal allocation now? (That may depend on whether or not we undertake an allocation process with the City in the near future - see below.) What other method of allocation makes sense?
- process for ascertaining fault - Who should make the allocation determination (e.g. Pam and Harold or the Exec)? How would the facts be presented to the decision maker(s)? Who would gather the information and how? Creating a situation that pits Wastewater and Airport (and their respective attorneys) against one another seems counterproductive to me. Pam and Harold (at a minimum) need to decide how the information will be gathered and presented.
- ability to pay - If fault cannot be easily ascertained, the allocation of fault may be based in part on ability to pay without running afoul of the Accountancy Act.

In reference to the allocation of Slip 4 clean up costs between the City and the County, the policy makers from the City and County need to decide the best approach to resolving that issue prior to finalizing an MOA. The MOA should be in place at least prior to signing the AOC for the clean up with EPA. The County and City may be asked to sign the AOC this fall. Therefore, those discussions need to happen soon. The most appropriate starting point is to have Don Theiler and Martin Baker work on the issue first. Here are some options for allocation that could be discussed:

- Enter into an allocation process that starts with a negotiated resolution, but that provides for binding arbitration even if allocation is only between City and County (Current City proposal).
- Rely on a negotiated resolution. Provide for the possibility of binding arbitration, but only if another PRP (e.g. Boeing) agrees to participate in the process.
- Continue to share the cost and agree to collectively pursue contribution against other PRPs at a later date (either after Slip 4 clean up is completed or after the river-wide effort is completed) and have the City/County allocation determined through that process.

Note: the deadline for pursuing collection will either be three years after completion of clean up or six years after starting the river-wide clean up.

To be honest, I don't know how these issues will be pushed up the chain of command. As I told you, I'm trying to get Noel to take up the issues, but he's swamped right now. If you have any ideas on that subject, please let me know. Also, if you have any questions or need additional information, please let me know.

-----Original Message-----

From: Renaud, Rick
To: Johnson, Scott
Sent: 3/29/06 10:06 AM
Subject: Slip 4

Confidential Attorney/Client Communication

Do Not Copy or Forward

Could you send me a quick e-mail on the policy issues and the needed next steps between Wastewater and the Airport, so that I can keep Bob and others informed on this end.

Rick Renaud

Airport Engineer

King County International Airport

(206) 296-7427